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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BOWERS, NATHAN ANDREW

ART UNIT PAPER NUMBER

1744

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/663,286	Applicant(s) SCURATI ET AL.	
	Examiner Nathan A. Bowers	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
 4a) Of the above claim(s) 32-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 45-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>052404, 121803</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-30 and 45-53, drawn to an integrated micro-device for analysis of a biological specimen, classified in class 435, subclass 287.2.
- II. Claims 32-39, drawn to a process for manufacturing an integrated device, classified in class 438, subclass 689.
- III. Claims 40-44, drawn to a method of amplification, classified in class 435, subclass 91.2.

Inventions of Group II and Group I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by another process that does not require a body made from semiconductor material. Furthermore, the product can be made from a process that does not require the formation of a second channel on top of a first channel.

Inventions of Group III and Group I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different

process. (MPEP § 806.05(e)). In this case, the apparatus is not restricted to only being used to amplify nucleic acids. Instead, the apparatus could be used as a nucleic acid hybridization array, chemical and/or biological reactor, or as a chip to facilitate a variety of other biochemical applications.

Inventions of Group II and Group III are directed to related processes. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, Group II discloses a process for manufacturing a device for nucleic acid analysis from semiconductor material. Group III discloses a process for amplifying a target nucleic acid. The inventions do not overlap in scope because one is a method for constructing the device, and the other is a method for using the device to complete a specific operation.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Tamsen Valoir on 18 July 2006 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-30 and 45-53. Affirmation of this election must be made by applicant in replying to this Office action. Claims 32-44 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Italy on 17 September 2002. It is noted, however, that applicant has not filed a certified copy of the TO 2002A 000808 application as required by 35 U.S.C. 119(b).

Claim Objections

Claim 8 is objected to because of the following informalities: the passage "comprising a heater, an electrode, a micropump..." appears to be incorrect. It is unclear whether the passage should read "comprising a heater, an electrode, *and* a micropump..." or "comprising a heater, an electrode, *or* a micropump..." Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1) Claims 1-14, 23/(10), and 45-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Pourahmadi (US 20020055167).

With respect to claims 1 and 45, Pourahmadi discloses an integrated micro-device for analysis of a biological specimen comprising a support (Figure 16:165). The

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support includes an inlet port, a first tank (Figure 16:173) and a detection chamber (Figure 16:177). The first tank and detection chamber are fluidly connected via a plurality of buried channels formed inside the support. This is disclosed in paragraphs [0013], [0014], [0115], [0117], [0118] and [0199]-[0204]. Paragraph [0199] specifically states that the device further includes a printed circuit board (Figure 16:167) arranged next to the support. Paragraphs [0056] and [0064] indicate that the micro-device also comprises various sensors. The support and the sensors are operably coupled to the printed circuit board.

With respect to claim 2, Pourahmadi discloses the apparatus in claim 1 wherein a micropump is provided on the support for moving a specimen from the first tank to the detection chamber through the buried channel. Paragraphs [0065] and [0066] state that various pumps are utilized for moving fluids through the microfluidic system.

With respect to claims 3 and 46-49, Pourahmadi discloses the apparatus in claims 1 and 45 wherein a heater is provided on the disposable support. This is described in paragraph [0075]. Paragraphs [0021], [0064] and [0124]-[0126] disclose the use of software and control elements to regulate the functioning of the device.

With respect to claims 4 and 8, Pourahmadi discloses the apparatus in claim 1 wherein electrodes are positioned on the support. This is disclosed in paragraphs [0135]-[0137]. Pourahmadi indicates that these electrodes, as well as additional micropumps, are used in moving specimens throughout the microfluidic system.

With respect to claim 5, Pourahmadi discloses the apparatus in claim 1 wherein the support further comprises a second tank (Figure 16:201) fluidly coupled with a

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buried channel. It is apparent from Figures 2 and 16 that the support includes a plurality of fluid tanks.

With respect to claims 6, 7 and 9, Pourahmadi discloses the apparatus in claims 1 and 8 wherein the support comprises silicon. This is clearly indicated in paragraph [0097]. Silicon is considered to be a material characterized by a high thermal conductivity.

With respect to claims 10-14 and 23/(10), Pourahmadi discloses an integrated device for analysis of nucleic acid. The device comprises a support (Figure 16:165) that includes a first tank (Figure 16:173) and a detection chamber (Figure 16:177). The first tank and detection chamber are fluidly connected via a plurality of buried channels and pre-treatment channels formed inside the support. This is disclosed in paragraphs [0013], [0014], [0115], [0117], [0118] and [0199]-[0204]. Paragraph [0199] specifically states that the device further includes a printed circuit board (Figure 16:167) arranged next to the support. Paragraphs [0056] and [0064] indicate that the micro-device also comprises various sensors. The support and the sensors are operably coupled to the printed circuit board.

With respect to claims 50-52, Pourahmadi discloses the apparatus of claim 49 wherein the portable device includes a sample injection system that comprises a cap mechanism (Figure 16:185) through which samples are moved. Paragraphs [0021], [0064] disclose the use of software and control elements to regulate sample flow through a plurality of pretreatment and buried channels.

2) Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US 20010036672).

With respect to claims 1 and 10-13, Anderson discloses an integrated micro-device for analysis of a biological specimen comprising a support that includes a first tank (Figure 3:202) and a detection chamber (Figure 3:218). The first tank and detection chambers are fluidly connected by a plurality of pretreatment channels and buried channels. A plurality of additional chambers (Figure 3:206; 210; 214) are additionally provided in fluid communication with the first and detection chambers. This is disclosed in paragraphs [0009], [0037]-[0040] and [0080]. Paragraph [0088] indicates that detection equipment is provided at the detection chamber for determining the presence of various biological analytes.

With respect to claim 2, Anderson discloses the apparatus in claim 1 wherein micropumps are provided on the support for moving a specimen from the first tank to the detection chamber through the buried channels. This is indicated in paragraph [0159].

With respect to claims 3 and 46-49, Anderson discloses the apparatus in claims 1 and 45 wherein a controllable heater is provided on the disposable support. This is described in paragraphs [0116] and [0117].

With respect to claims 4 and 8, Anderson discloses the apparatus in claim 1 wherein electrodes are positioned on the support. This is disclosed in paragraph [0162]. Pourahmadi indicates that these electrodes, as well as additional micropumps, are used in moving specimens throughout the microfluidic system.

With respect to claim 5, Anderson discloses the apparatus in claim 1 wherein the support further comprises a second tank (Figure 3:206) fluidly coupled with a buried channel. It is apparent from Figure 3 that the support includes a plurality of fluid tanks.

With respect to claims 6, 7 and 9, Anderson discloses the apparatus in claims 1 and 8 wherein the support comprises silicon. This is clearly indicated in paragraph [0095]. Silicon is considered to be a material characterized by a high thermal conductivity.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3) Claims 1-14, 23/(10), and 45-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pourahmadi (US 20020055167) or Anderson (US 20010036672), and further in view of Villa (EP 1043770).

Pourahmadi and Anderson disclose the apparatuses as previously described. It is believed that Anderson teaches every limitation set forth in claims 1 and 10, and it is believed that Pourahmadi teaches every limitation set forth in claims 1, 10 and 45. However, if the microfluidic channels disclosed in both references cannot be considered to be "buried channels," then the references fail to teach every limitation set forth in the claims.

Villa discloses a method for creating buried microfluidic channels in a semiconductor wafer. This is disclosed in paragraphs [0001]-[0007]. Figure 9 shows an example of a channel (Figure 9:21) that completely surrounded on all sides by the semiconductor substrate.

Pourahmadi, Anderson, and Villa are analogous art because they are from the same field of endeavor regarding the use of microfluidic semiconductor wafers.

At the time of the invention, it would have been obvious to ensure that the microfluidic channels disclosed by Pourahmadi and Anderson are buried channels surrounded on all sides by the support substrate. Villa indicates in paragraphs [0009]-[0017] that buried microchannels can be easily constructed in a semiconductor support using known etching and deposition techniques. Paragraph [0032] indicates that buried microchannels are beneficial because they can be created in a reliable and repeatable manner. Buried microchannels can be formed in a variety of different geometries and shapes depending on the requirements of the current experiment.

4) Claims 15-22, 23/(17,22), and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pourahmadi (US 20020055167) as applied to claim 14, and further in view of Freeman (US 6653124).

With respect to claims 15, 16 and 18-21, Pourahmadi discloses the apparatus set forth in claim 14 as set forth in the 35 U.S.C. 102 rejection above. Pourahmadi, however, discloses the use of buried channels, and does not expressly indicate that pre-treatment channels are formed above the support and confined by a containment structure and a protective cover.

Freeman discloses a microfluidic chip that comprises a plurality of detection chambers (Figure 1:12) and connecting fluid channels (Figure 1:14,16,18). Column 7, line 15 to column 9, line 64 indicates that the device is used for detecting nucleic acid hybridization reactions. Column 13, line 54 to column 14, line 8 indicate that the microfluidic structures are formed above a support (Figure 4:30), and are delimited

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laterally by containment structures (Figure 4:46,56) and on top by a protective plate (Figure 4:50) that covers the containment structures. Column 25, lines 25-33 and column 26, lines 21-41 indicate that the containment structures and covers are made from conductive polymeric materials, glass, circuit board, silicon, and other pertinent materials. The cover includes a transparent window to facilitate optical detection methods.

Pourahmadi and Freeman are analogous art because they are from the same field of endeavor regarding microfluidic detection devices.

At the time of the invention, it would have been obvious to provide pre-treatment channels in the apparatus disclosed by Pourahmadi that are formed above the support, rather than buried in the support. In column 13, line 54 to column 14, line 8, Freeman indicates that this type of construction is well known in the microfluidic art, and is particularly simple to create. The thickness of the containment structure can be regulated to quickly determine the height of the channels and chambers. Methods of sealing the support, containment structure, and cover together are well known in the art, and can be completed in an effective and precise manner.

With respect to claims 17 and 22, Pourahmadi and Freeman disclose the apparatus set forth in claim 16 as set forth in the 35 U.S.C. 103 rejection above. In addition, Pourahmadi indicates in paragraphs [0135]-[0137] that electrodes are positioned in the flow channels in order to transport biomolecules using dielectrophoresis techniques. An electrostatic cage is formed since particles are

allowed to move between areas characterized by a positive charge and areas characterized by a negative charge.

With respect to claims 23(17,22) and 24, Pourahmadi and Freeman disclose the apparatus set forth in claims 17 and 22 as set forth in the 35 U.S.C. 103 rejection above. Pourahmadi additionally discloses in paragraphs [0065] and [0066] that various micropumps are utilized for moving fluids through the microfluidic system. Paragraph [0067] specifically discloses the use of vacuum pumps.

5) Claims 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pourahmadi (US 20020055167) in view of Freeman (US 6653124) as applied to claim 24, and further in view of Kaplan (US 6453928) and/or Webster (US 6521188).

Pourahmadi and Freeman disclose the apparatus set forth in claim 24 as set forth in the 35 U.S.C. 103 rejection above, however do not provide specific information regarding the disclosed vacuum pumps.

Kaplan discloses a microfluidic pumping mechanism in which a plurality of chambers (Figure 5:132, 142, 152) are provided on a semiconductor support. The chambers are fluid tight, and are set at preset pressures. Column 1, line 63 to column 2, line 7, column 3, line 49 to column 4, line 29, and column 12, line 56 to column 14, line 6 indicate that fluids move between various chambers through suction channels. The fluid tight chambers are sealed by a diaphragm that is electrically openable.

Electrodes (Figure 2:34) are provided creating holes in the diaphragms, and thereby initiating the pumping mechanism. This is disclosed in column 15, lines 15-25.

Webster discloses a similar system to that described by Kaplan. Webster discloses a plurality of pressurized chambers (Figure 1:13) that are connected via a suction channel (Figure 1:12). The pressurized chambers are sealed by a diaphragm that is opened by an electrode (Figure 1:15) near the inlet of each fluid chamber. This is disclosed in column 3, lines 37-67.

Pourahmadi, Freeman, Kaplan and Webster are analogous art because they are from the same field of endeavor regarding microfluidic systems.

At the time of the invention, it would have been obvious to utilize the pumping mechanisms disclosed by Kaplan and Webster to move the fluids disclosed by Pourahmadi to and from the detection chamber. Kaplan and Webster each teach that their vacuum micropumping system is beneficial because it is less complicated, costly and cumbersome than many mechanically and valve based micropumps. The pressurized chambers disclosed by Kaplan and Webster can be easily incorporated into semiconductor material substrates, and can effectively be operated by a diaphragm and electrode combination. Limitations regarding the thickness of the diaphragm are not considered to patentable distinctions over the prior art because they represent result effective variables that are optimized through routine experimentation. See MPEP 2144.05.

6) Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pourahmadi (US 20020055167) as applied to claim 52, and further in view of McDevitt (US 20030064422).

Pourahmadi discloses the apparatus set forth in claim 52 as set forth in the 35 U.S.C. 102 rejection above, however does not expressly disclose that the detection chamber utilizes a CMOS detector.

McDevitt discloses a microfluidic chip that is capable of detecting nucleic acid analytes in a sample fluid. In paragraphs [0010], [0014] and [0503]-[0506], McDevitt teaches that target nucleic acids are hybridized to capture probes located in a detection chamber during the analysis of a sample solution. Paragraph [0561] states that CMOS detectors are utilized to determine the presence of analytes.

Pourahmadi and McDevitt are analogous art because they are from the same field of endeavor regarding microfluidic biochemical detection apparatuses.

At the time of the invention, it would have been obvious to provide the detection chamber disclosed by Pourahmadi with a CMOS detector. McDevitt discloses in paragraph [0561] that CMOS detectors are advantageous over other traditional detection devices because they can easily be fit within the casing of a portable sensor array system. McDevitt also indicates that CMOS detectors are low in cost and power consumption. Furthermore, CMOS detectors would have been beneficial to implement because they allow one to place sensing elements and microelectronics on a single integrated chip.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7) Claims 1, 3, 4, 6 and 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 and 10-14 of copending Application No. 09/874382. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim a micro-device comprising a support, buried channels, and a detection chamber. The instant application is generic to Application No. 09/874382 in the sense that Application No. 09/874382 discloses the support to specifically be a semiconductor material body, whereas the instant application does not make this requirement in the independent claims. Furthermore, Application No. 09/874382 specifically discloses the use of sensing electrodes, rather than broadly claiming a standard detection chamber.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8) Claims 1, 3-7 and 10-13 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-20 of copending Application No. 11/017272. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim a micro-device comprising a support, buried channels, and a detection chamber. The instant application is generic to Application No. 11/017272 in the sense that Application No. 11/017272 discloses the support to specifically be a semiconductor material body whereas the instant application does not make this requirement in the independent claims. Furthermore, Application No. 11/017272 specifically discloses the use of a nucleic acid detection chamber comprising an array of probes, rather than broadly claiming a standard detection chamber. Application No. 11/017272 additionally discloses multiple processing chambers fluidly linked to inlets, outlets, and the detection chamber through a microfluidic circuit.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9) Claims 1, 6 and 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 and 34 of copending Application No. 11/009171. Although the conflicting claims are not identical,

they are not patentably distinct from each other because both applications claim a micro-device comprising a support, buried channels, and a detection chamber. The instant application is generic to Application No. 11/009171 in the sense that Application No. 11/009171 discloses the support to specifically be a monolithic body made from semiconductor material. Furthermore, Application No. 11/009171 specifically discloses the use of a detection area that is observed through an opening formed in the body, rather than broadly claiming a standard detection chamber.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10) Claims 1-3, 5-7, 10-14 and 45-49 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 9, 10, 13-15 17, 19 and 20 of copending Application No. 11/092415. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim a micro-device comprising a support, buried channels, a detection chamber, and a printed circuit board. The instant application is generic to Application No. 11/092415 in the sense that Application No. 11/092415 discloses additional limitations regarding the structure of the temperature control device. Application No. 11/092415 additionally discloses a heater, micropump, the use of semiconductor materials, and that the sample to be analyzed comprises nucleic acids.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Burns (US 6653124) reference discloses the state of the art regarding micro-devices comprising buried channels and detection chambers.

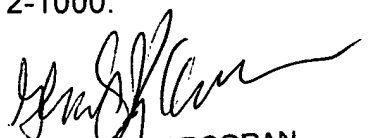
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan A. Bowers whose telephone number is (571) 272-8613. The examiner can normally be reached on Monday-Friday 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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